

A New Sheriff's in Town; The Town Is Nottingham

(August 26, 2011)

“Stop Coddling the Super-Rich” was the headline for the op-ed article by Warren Buffett in the August 15 *New York Times*, which the investment guru began, “Our leaders have asked for ‘shared sacrifice.’ But when they did the asking, they spared me . . . While the poor and middle class fight for us in Afghanistan, and while most Americans struggle to make ends meet, we mega-rich continue to get our extraordinary tax breaks.”

At the same time many were reading his piece noting that he and fellow billionaires are paying taxes on a far-smaller percentage of their incomes than ordinary employees because their capital gains on investments are taxed at a much-lower rate than earnings from actual work, the Civil Service Employees Association was counting the ballots on a wage contract—a term that’s used loosely here—that would freeze pay for three years, require employees to take nine days of unpaid furloughs, and increase their health-benefit contributions by as much as 60 percent.

Members were asked to hold their nose with one hand while digging so deep into their pockets with the other because Governor Cuomo made a political decision that he, too, should spare the wealthiest of his constituents from the sacrifice being asked of their fiscal inferiors. He took a campaign pledge not to increase taxes to an

extreme level by steadfastly opposing a push to extend the income-tax surcharge on high earners that is due to expire at the end of this year.

Why Afflict the Comfortable?

Even when a compromise was offered by Assembly Speaker Sheldon Silver under which the surcharge would be eliminated for all those making less than \$1 million in taxable income, the new governor said no. He was determined to get the state's budget in balance by sticking it to his workforce without afflicting the most-comfortable residents of the state. In the Orwellian world of tabloid-driven politics, this is known as exercising leadership. Public workers are like peasants being leaned upon by the Sheriff of Nottingham, with no Robin Hood in sight to balance the scales.

Even after a slightly-more-onerous deal was voted down by the law-enforcement wing of Council 82, Mr. Cuomo barely sweetened the pot on wages to offer two 2-percent raises in the final two years of the five-year deal. He knew he didn't have to rely too heavily on the carrot because the CSEA's leadership was focused on the big stick he held: the threat of up to 9,800 layoffs unless the unions met his demands.

"People are terrified of the [upstate] economy," said one veteran union negotiator who nonetheless had been skeptical that the deal would be ratified. A three-year wage freeze is unprecedented in state and city collective bargaining over the past 45 years, and even the two-year freezes of the mid-1990s did not come with additional givebacks as part of the package.

Of particular concern, said this negotiator, who spoke conditioned on anonymity, is that Mr. Cuomo is holding two more hammers over the state's largest union: his vow that next year his top priority will be gaining legislative approval of a Tier 6 pension plan for future workers, and the fact that the no-layoff clause that was a key element of the CSEA accepting the givebacks only applies to the first two years of the contract and would not prevent people from losing their jobs if agencies eliminate their units.

"If I'm CSEA and I made this deal and I didn't have an understanding on pensions, that's a major faux pas," this negotiator said. "If things go belly-up, that [no-layoff] language is something you can drive a truck through."

More Fearful of Boss than of Members

Deals like this get done when labor leaders are more afraid of the government official on the other side of the table than they are of the wrath of their own members. Yet it's not as if Mr. Cuomo's take-it-or-else stance didn't carry risks for him as well. As much as he may have spoken during the campaign about the waste in state agencies, knocking 4,800 people—never mind 9,800—off the payroll would have adversely affected the services his administration is expected to deliver. He spent part of last year encouraging union leaders to read a biography of Hugh Carey that pivoted on how that governor saved the city—and by extension, the state—from the 1975 fiscal crisis. When Mayor Beame laid off tens of thousands of workers, it had a devastating impact on city services; one of Mr. Carey's key accomplishments was using a Federal jobs program as a device to bring back a sizable contingent of those employees.

But Mr. Cuomo went all-in playing the layoff card, and CSEA President Danny Donohue and his counterpart at the second-largest state-employee union, Ken Brynien of the Public Employees Federation, were unwilling to call his bluff. The PEF deal, also made under the shadow of hundreds of looming layoffs a month ago, was reached just six days before the CSEA mailed ballots to its members. The timing was exquisite for Mr. Cuomo: nothing can nip an up-from-the-grassroots insurrection against a one-sided contract like the hard reality that even if you don't accept the terms, your neighbors are likely to, leaving you in an untenable spot.

"Seventeen thousand people voted for it, which is not exactly a mandate," said Kitty Lerin, noting that this was just 25 percent of the CSEA's state membership, and that just slightly more than 40 percent of the rank and file had bothered to return the mail ballots. "I don't know why more people didn't vote," said the veteran Lottery Marketing Executive 1, who was outspoken against both the terms and the length of the contract.

She chalked up the relatively low return—more than 60 percent of city transit workers typically cast mail ballots on their wage pacts—to "apathy," but said she understood why many union members were reluctant to vote no and risk major job losses.

'Many Have Nowhere to Go'

"It's a different thing," Ms. Lerin said, "when many people are working for slightly above minimum wage and they don't have anywhere to

go. A lot of people I think are just happy to have a job, and they're not willing to fight."

With more than 22 years of service, she had said last month that she was hoping to retire in three years, but on the day after the deal was ratified, she said the lost pension income that would result from the furloughs meant leaving even after five years might not be practical for her.

"I'm disappointed," she said about the contract. "I'll just have to live with it."

Even more revealing, her disappointment was apparently shared by many of those who voted for the contract. Among them was a co-worker, John O'Brien, a former CSEA elected official, who said that when he stopped into the State Lottery's Varick Street offices in lower Manhattan August 17, he found "a very somber mood. The younger people didn't seem relieved that their jobs had been saved. The older people were very distressed about the contract being passed."

And more than a few were mystified, he continued, about how the union wound up giving Mr. Cuomo the full savings he had demanded at the outset of talks, despite the claim by some CSEA negotiating team members that they had beaten back some of the more-unappealing demands from the state.

'Did They Really Negotiate?'

"Some people said they never really negotiated that deal; it was cut months ago," Mr. O'Brien said. There was some additional cynicism over the fact that rather than using an outside party to tally the ballots, the count was conducted by what he described as the same officials who negotiated the deal.

"Even though I voted for the contract," he said, "there was so much mixed emotion I had about it and the methodology for the way it happened."

Yet how much less-severe would the union concessions have needed to be if Mr. Cuomo had agreed to a modified extension of the income-tax surcharge along the lines proposed by Mr. Silver? His claim that the state needed to send a signal that it was easing the tax burden before it could generate greater economic activity was indirectly contradicted by Mr. Buffett, who wrote, "And to those who argue that higher rates hurt job creation, I would note that a net of nearly 40 million jobs were added between 1980 and 2000. You know what's happened since then: lower tax rates and far lower job creation."

Soak Rich, Dampen Ambitions

The Oracle of Omaha went on to propose that the Federal Government raise tax rates on those making in excess of \$1 million in taxable income, with an increase in the taxes they paid on dividends and capital gains as well. Mr. Cuomo, perhaps correctly, perceives that taking such positions is not the best way to advance a political future that he clearly hopes will land him in the White House after the 2016 presidential election.

Better than most people, he is able to appreciate the political price that can be paid for taking unpopular stands rooted in principle, even when you do so by appealing to people's better natures.

One such elected official many years ago criticized a president for a philosophy he described as "Make the rich richer, and what falls from the table will be enough for the middle class and those who are trying desperately to work their way into the middle class."

This official argued that to be a Democrat meant embracing a constituency that at its heart included "the middle class, the people not rich enough to be worry-free, but not poor enough to be on welfare . . . we believe in a government that is characterized by fairness and reasonableness . . . the sharing of benefits and burdens for the good of all . . ."

That speech did not help elect as president the candidate on whose behalf it was given. Nor, for all the plaudits it earned, did it lead the man who gave that keynote address at the 1984 Democratic National Convention to run and win, as some thought he was capable of doing, eight years later. But it enunciated ideals and a vision that our current governor seems to lack, even on those days when the cadences and throbbing intensity of his voice remind us of that speaker.

Then again, maybe Andrew Cuomo believes his father could have gotten a lot further politically if he'd strong-armed public employee unions and their members a few times to gain approval from those higher up on the income ladder.

In December 2011, after being dubbed "Governor 1 Percent" by Occupy Wall Street and amid mounting public sentiment for requiring the richest New Yorkers to pay more, Mr. Cuomo steered into law a variation of Sheldon Silver's proposal that slightly reduced the surcharge for those with taxable income above \$1 million—while making that rate a permanent part of the income tax—but restored individuals earning between \$200,000

and \$1 million to the old tax rate and offered a small reduction to those earning less than that. Any notion that this marked a lasting shift in his sentiments was quelled when, less than six weeks later, he proposed sharply reducing pension rights for future city and state workers.